

E. In connection with the consummation of the purchase and sale of shares of Series C Preferred Stock and the Warrants pursuant to the Amended Purchase Agreement and the other transactions contemplated thereby, the Company, Gaus, DeWeese and the Investors desire to enter into this Agreement in order to amend and restate the rights and obligations of the Key Shareholders, the Investors (other than GE Capital) and the Company under the Prior Agreement, and to extend such rights to GE Capital, as set forth in this Agreement.

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Voting

1.1 Common Shares; Investor Shares.

(a) Each Key Shareholder shall hold all shares of voting capital stock of the Company and any other securities of the Company registered in his name or beneficially owned by him as of the date hereof (and any and all other securities of the Company legally or beneficially acquired by such Key Shareholder after the date hereof) (hereinafter collectively referred to as the "Common Shares") subject to, and shall, to the extent applicable, vote such Common Shares in accordance with, the provisions of this Agreement.

(b) Each Investor shall hold all shares of voting capital stock of the Company and any other securities of the Company registered in such Investor's name or beneficially owned by it as of the date hereof (and any and all other securities of the Company legally or beneficially acquired by such Investor after the date hereof) (hereinafter collectively referred to as the "Investor Shares") subject to, and shall, to the extent applicable, vote such Investor Shares in accordance with, the provisions of this Agreement.

1.2 Election of Directors; Meetings; Committees.

- (a) A "Significant Corporate Event" means the closing of any of: (i) the first public offering of the Common Stock underwritten by an underwriter of national standing pursuant to an effective registration statement under the Securities Act of 1933, as amended, with (a) gross proceeds to the Company of at least Thirty Million Dollars (\$30,000,000) and (b) a price paid by the public for such Common Stock of at least \$12.50 per share (appropriately adjusted to reflect any subdivision, combination or stock dividend of or with respect to the Common Stock) or such lower price per share as agreed in writing by holders of at least 78% of the Series C Preferred Stock; (ii) a sale or other disposition of all or substantially all of the Company's assets to another corporation or other entity or any consolidation, merger or similar transaction involving the Company or any other corporate reorganization, as a result of which the shareholders of the

Company immediately prior to such sale, consolidation, merger, transaction or reorganization own immediately thereafter securities having less than fifty percent (50%) of the ordinary voting power of the corporation or other entity surviving such sale, consolidation, merger, transaction or reorganization; or (iii) any transaction or series of related transactions as a result of which securities having in excess of fifty percent (50%) of the Company's ordinary voting power are transferred by the holders thereof to a person or entity or group of affiliated persons or entities.

(b) Each Key Shareholder and each Investor shall vote all of the Common Shares or Investor Shares held by him or it as of the applicable record date (or shall consent pursuant to an action by written consent of shareholders) so as to elect the following persons as members of the Company's Board of Directors (the "Board"):

- (i) Gaus;
- (ii) DeWeese;
- (iii) One (1) person designated in writing by DEI (the "DEI Designee");
- (iv) One (1) person designated in writing by Unitil (the "Unitil Designee");
- (v) Two (2) persons designated in writing by InSight (each an "InSight Designee");
- (vi) One (1) person designated in writing by GE Capital (the "GE Capital Designee"); and
- (vii) The person serving as Chief Executive Officer of the Company, if such person is not Gaus.

provided, that the Investors shall only be obligated to vote their shares for, or provide written consents for, the election of Gaus or DeWeese so long as such person is an employee of, or a consultant to, the Company.

(c) Upon written notice from a duly authorized representative of DEI requesting the removal and/or replacement of the DEI Designee, each Key Shareholder and each Investor shall vote all of the Common Shares or Investor Shares held by him or it as of the applicable record date (or shall consent pursuant to an action by written consent of shareholders) so as to remove and replace such DEI Designee.

(d) Upon written notice from a duly authorized representative of Unitil requesting the removal and/or replacement of the Unitil Designee, each Key

Shareholder and each Investor shall vote all of the Common Shares or Investor Shares held by him or it as of the applicable record date (or shall consent pursuant to an action by written consent of shareholders) so as to remove and replace such Unifit Designee.

(e) Upon written notice from a duly authorized representative of InSight requesting the removal and/or replacement of any InSight Designee, each Key Shareholder and each Investor shall vote all of the Common Shares or Investor Shares held by him or it as of the applicable record date (or shall consent pursuant to an action by written consent of the shareholders) so as to remove and replace such InSight Designee.

(f) Upon written notice from a duly authorized representative of GE Capital requesting the removal and/or replacement of the GE Capital Designee, each Key Shareholder and each Investor shall vote all of the Common Shares or Investor Shares held by him or it as of the applicable record date (or shall consent pursuant to an action by written consent of the shareholders) so as to remove and replace such GE Capital Designee.

(g) For so long as each Investor (together with its Affiliate Transferees as defined in Section 1.5) owns at least 25% of the Investor Shares held by such Investor on the date of this Agreement (as appropriately adjusted to reflect stock splits, reverse stock splits, stock dividends, combinations of shares and the like), the Company shall permit one representative of each Investor (the "Investor Observer") to attend, in a nonvoting observer capacity, each meeting of the Board of Directors of the Company. Each Investor Observer shall be an employee of the Investor or an affiliate of the Investor appointing such Investor Observer. Upon the request of the Board of Directors of the Company, an Investor Observer will excuse himself or herself from any portion of the Board meeting if the Board of Directors shall determine that the Investor Observer's presence may violate the attorney-client privilege, create a conflict of interest or endanger any intellectual property rights of the Company. Any materials furnished to any Investor Observer and the discussions and presentations in connection with or at any meeting shall be considered confidential information and no Investor Observer shall disclose such materials and discussions to any third party.

(h) Notwithstanding anything in this Section 1.2 to the contrary, each Key Shareholder and each Investor shall only be obligated to vote (or to provide written consents with respect to the voting of) his or its Common Shares or Investor Shares to elect, remove or replace a designee of any Investor in accordance with this Section 1.2 so long as such Investor seeking to elect, remove or replace a designee (together with such Investor's Affiliate Transferees as defined in Section 1.5) holds at least 25% of the Investor Shares held by such Investor on the date of this Agreement (appropriately adjusted to reflect stock splits, reverse stock splits, stock dividends, combinations of shares and the like).

(i) The Company shall reimburse each of its non-employee directors for the reasonable expenses incurred by them in attending meetings of the Board of Directors.

(j) The number of Investor Shares held by each Investor on the date hereof is set forth on Exhibit A attached hereto.

(k) Each Key Shareholder agrees and each Investor agrees to instruct its respective Designee to appoint the GE Capital Designee, or such other person designated by GE Capital and reasonably acceptable to the Board of Directors, as a member of both the Product Advisory Committee and the Strategy and Marketing Committee of the Company.

(l) In no event shall any rights under this Section 1.2 be transferable except in connection with transfers to Affiliate Transferees.

1.3 Legend.

(a) Concurrently with the execution of this Agreement, there shall be imprinted or otherwise placed on certificates representing the Common Shares and the Investor Shares the following restrictive legend (the "Legend"):

"THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO THE TERMS AND CONDITIONS OF A SHAREHOLDERS AGREEMENT WHICH PLACES CERTAIN RESTRICTIONS ON THE SHARES REPRESENTED HEREBY. ANY PERSON ACCEPTING ANY INTEREST IN SUCH SHARES SHALL BE DEEMED TO AGREE TO AND SHALL BE BOUND BY ALL THE PROVISIONS OF SUCH SHAREHOLDERS AGREEMENT. A COPY OF SUCH SHAREHOLDERS AGREEMENT WILL BE FURNISHED TO THE RECORD HOLDER OF THIS CERTIFICATE WITHOUT CHARGE UPON WRITTEN REQUEST TO THE COMPANY AT ITS PRINCIPAL PLACE OF BUSINESS."

(b) During the term of this Agreement, the Company will not remove, and will not permit to be removed (upon registration of transfer, reissuance or otherwise), the Legend from any such certificate and will place or cause to be placed the Legend on any new certificate issued to represent Common Shares or Investor Shares theretofore represented by a certificate carrying the Legend.

1.4 Transfers By Key Shareholders.

Each Key Shareholder shall not sell, transfer, assign or otherwise dispose of (collectively, "Transfer") any interest in the Common Shares owned by him during the term hereof without the prior approval of a majority of the entire Board; provided, that each Key Shareholder shall be permitted to (i) pledge such Common Shares as security for any debt of the Company, (ii) Transfer any

is based. This corporation shall, upon the written request at any time of any holder of the Series A Preferred, the Series B Preferred or the Series C Preferred, furnish or cause to be furnished to such holder a like certificate setting forth (i) all such adjustments and readjustments, (ii) the applicable Conversion Price at the time in effect, and (iii) the number of shares of Common and the amount, if any, of other property which at the time would be received upon the conversion of the applicable series of Preferred.

(f) **Notices of Record Dates.** In the event that this corporation shall propose at any time:

(i) To declare any dividend or distribution upon the Common, whether in cash, property, stock or other securities, whether or not a regular cash dividend and whether or not out of earnings or earned surplus;

(ii) To effect any reclassification or recapitalization; or

(iii) To merge or consolidate with or into any other corporation, or sell, lease or convey all or substantially all its property or business, or to liquidate, dissolve or wind up;

then, in connection with each such event, this corporation shall send to the holders of the Series A Preferred, the Series B Preferred and the Series C Preferred:

(1) At least twenty (20) days prior written notice of the date on which a record shall be taken for such dividend or distribution (and specifying the date on which the holders of Common shall be entitled thereto) or for determining the right to vote in respect of any matter referred to in clauses (ii) and (iii) above; and

(2) In the case of matters referred to in clauses (ii) and (iii) above, at least twenty (20) days prior written notice of the date of a shareholders' meeting at which a vote on any such matter shall take place (and specifying the date on which the holders of Common shall be entitled to exchange their Common for shares, securities or other property deliverable upon the occurrence of such event and the amount of securities or other property deliverable upon such event).

Each such written notice shall be given personally or by first class mail, postage prepaid, addressed to the holders of the Series A Preferred, the Series B Preferred and the Series C Preferred at the address for each such holder as shown on the books of this corporation.

Section 7. Voting Rights. The holders of Common shall be entitled to one vote for each share of Common held by them at the record date for the determination of shareholders entitled to vote on such matter or, if no record date is established, on the date such vote is taken or any written consent of shareholders is solicited. The holders of each share of the Series A Preferred, the Series B Preferred and the Series C Preferred shall be entitled to vote such number of votes per share as shall equal the number of shares of Common into which each share of the Series A Preferred, the Series B Preferred

or the Series C Preferred is convertible in accordance with the terms of Section 6 hereof at the record date for the determination of shareholders entitled to vote on such matter or, if no record date is established, at the date such vote is taken or any written consent of shareholders is solicited. Except as otherwise expressly provided herein or as required by law, the holders of the Series A Preferred, the Series B Preferred, the Series C Preferred and Common shall vote together as a single class on all matters submitted to a vote of shareholders.

Section 8. Protective Covenants.

(a) So long as any shares of the Series A Preferred are outstanding, this corporation shall not without first obtaining the affirmative vote of or written consent of the holders of at least a majority of the then outstanding Series A Preferred voting as single class:

(i) Alter or change the rights, preferences or privileges of the Series A Preferred so as to affect such class in any adverse way; or

(ii) Authorize or issue shares of any class or series of stock having any preference as to voting, redemption rights, dividends or liquidation superior to or on parity with any such preference or priority of the Series A Preferred, or authorize or issue shares of stock of any class or any bonds, debentures, notes or other obligations convertible into or exchangeable for, or having option rights to purchase, any shares of stock of this corporation having any preference as to voting, redemption rights, dividends, voting rights, liquidation or assets superior to or on a parity with any such preference of the Series A Preferred.

(b) So long as any shares of the Series B Preferred are outstanding, this corporation shall not without first obtaining the affirmative vote of or written consent of the holders of at least a majority of the then outstanding Series B Preferred voting as single class:

(i) Alter or change the rights, preferences or privileges of the Series B Preferred so as to affect such class in any adverse way; or

(ii) Authorize or issue shares of any class or series of stock having any preference as to voting, redemption rights, dividends or liquidation superior to or on parity with any such preference or priority of the Series B Preferred, or authorize or issue shares of stock of any class or any bonds, debentures, notes or other obligations convertible into or exchangeable for, or having option rights to purchase, any shares of stock of this corporation having any preference as to voting, redemption rights, dividends, voting rights, liquidation or assets superior to or on a parity with any such preference of the Series B Preferred.

(c) So long as any shares of the Series C Preferred are outstanding, this corporation shall not without first obtaining the affirmative vote of or written consent of

certified or registered mail, return receipt requested. Every written consent shall bear the date of signature of each stockholder who signs the consent and no written consent shall be effective to take the corporate action referred to therein unless, within sixty days of the earliest dated consent delivered in the manner required by law, to the Corporation, written consents signed by a sufficient number of holders to take action are delivered to the Corporation in the manner indicated above. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing.

ARTICLE II BOARD OF DIRECTORS

Section 2.1 Functions and Compensation. The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors of the Corporation. The Board of Directors shall have the authority to fix the compensation of the members thereof.

Section 2.2 Number; Qualifications. The Board of Directors shall consist of not less than six (6) and not more than eight (8) members. Directors need not be stockholders.

Section 2.3 Election; Resignation; Removal; Vacancies. At each annual meeting of stockholders, the stockholders shall elect Directors to replace those Directors whose terms then expire. Any Director may resign at any time upon written notice to the Corporation. Stockholders may remove Directors with or without cause by vote of a majority of the shares then entitled to vote at an election of directors. Any vacancy occurring in the Board of Directors for any cause may be filled by a plurality of the votes cast at a meeting of stockholders, and each Director so elected shall hold office until the expiration of the term of office of the Director whom he has replaced.

Section 2.4 Regular Meetings. Regular meetings of the Board of Directors may be held at such places within or without the State of Delaware and at such times as the Board of Directors may from time to time determine, and if so determined notice thereof need not be given.

Section 2.5 Special Meetings. Special meetings of the Board of Directors may be held at any time or place within or without the State of Delaware whenever called by the Chairman of the Board, the President, or by a plurality of directors in office. Reasonable notice thereof shall be given by the person or persons calling the meeting at least 48 hours before the meeting.

Section 2.6 Telephonic Meetings Permitted. Members of the Board of Directors, or any committee designated by the Board, may participate in a meeting of such Board or committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this Section 2.6 shall constitute presence in person at such meeting.

Section 2.7 Quorum; Vote Required for Action.

- (a) At all meetings of the Board of Directors a majority of the entire Board shall constitute a quorum for the transaction of business. Except in cases in which the Certificate of Incorporation or these Bylaws otherwise provide, the vote of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.
- (b) Prior to the occurrence of a Significant Corporate Event (as defined below), the Corporation shall not take any of the following actions, or permit any of the following actions to occur, without in each instance first obtaining the affirmative vote of a majority of the members of the entire Board of Directors:
- (i) Declare, set aside or pay any dividends or distributions (whether in cash, stock or property or any combination thereof) to any holders of shares of capital stock of the Corporation (except for dividends payable to the holders of shares of Series A Preferred Stock pursuant to the Certificate of Incorporation, as amended);
 - (ii) Offer, sell or issue any securities of the Corporation (other than pursuant to the Corporation's stock option and incentive plan);
 - (iii) Repurchase any common stock issued upon exercise of any options or warrants of the Corporation (other than common stock issued pursuant to the Corporation's stock option and incentive plan);
 - (iv) Enter into an agreement to consummate a public offering of the Corporation's Common Stock, a sale or other disposition of all or substantially all of the Corporation's assets, a merger or consolidation of the Corporation, or any other corporate reorganization;
 - (v) Enter into, amend, modify or terminate any agreement with any officer, director, stockholder or employee of the Corporation or any member of their immediate families (other than with respect to at-will employment arrangements);
 - (vi) Liquidate, dissolve, or file a voluntary petition in bankruptcy with respect to, the Corporation;
 - (vii) Change accounting methods, policies or independent certified public accountants;
 - (viii) Amend, modify or repeal any provision of these Bylaws;
 - (ix) Approve a resolution to amend, modify or repeal any provision of the Certificate of Incorporation;
 - (x) Pledge assets of the Corporation, other than for purchase money indebtedness incurred in the ordinary course of business;

- (xi) Make expenditures in excess of \$1,000,000 not included in the annual operating plan;
- (xii) Increase the number of shares of capital stock available for issuance under the stock option plan of the Corporation;
- (xiii) Enter into an agreement to borrow in excess of \$1,000,000 per year in the aggregate;
- (xiv) Approve each annual operating plan;
- (xv) Settle any material litigation;
- (xvi) Make material changes in the Corporation's strategic direction not specified in the annual operating plan; or
- (xvii) Amend this list of actions.

(c) Significant Corporate Event. A "Significant Corporate Event" means the closing of any of: (i) the first public offering of the Corporation's Common Stock underwritten by an underwriter of national standing pursuant to an effective registration statement under the Securities Act of 1933, as amended, with (a) gross proceeds to the Company of at least Thirty Million Dollars (\$30,000,000) and (b) a price paid by the public for such Common Stock of at least \$12.50 per share (appropriately adjusted to reflect any subdivision, combination or stock dividend of or with respect to the Common Stock) or such lower price per share as agreed in writing by holders of at least 78% of the Corporation's Series C Preferred Stock, \$.01 par value per share; (ii) a sale or other disposition of all or substantially all of the Corporation's assets to another corporation or other entity or any consolidation, merger or similar transaction involving the Corporation or any other corporate reorganization, as a result of which the stockholders of the Corporation immediately prior to such sale, consolidation, merger, transaction or reorganization own immediately thereafter securities having less than fifty percent (50%) of the ordinary voting power of the Corporation or other entity surviving such sale, consolidation, merger, transaction or reorganization; or (iii) any transaction or series of related transactions as a result of which securities having in excess of fifty percent (50%) of the Corporation's ordinary voting power are transferred by the holders thereof to a person or entity or group of affiliated persons or entities.

Section 2.8 Organization. Meetings of the Board of Directors shall be presided over by the Chairman of the Board, if any, or in his absence by the President, or in his absence by a chairman chosen at the meeting. The Secretary shall act as secretary of the meeting, but in his absence the chairman of the meeting may appoint any person to act as secretary of the meeting.

Section 2.9 Action by Directors Without a Meeting. Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, any action required or permitted to be taken at any meeting of the Board of Directors, or of any committee thereof, may be taken without a

WRITTEN CONSENT IN LIEU OF
MEETING OF THE BOARD OF DIRECTORS

OF

ENERMETRIX.COM, INC.

November 23, 1999

The undersigned, being all of the directors of Enermetrix.com, Inc., a Delaware corporation (the "Corporation"), do hereby take, pursuant to Section 141(f) of the General Corporation Law of the State of Delaware, the following actions and adopt the following resolutions with the same force and effect as if duly taken and adopted at a duly called meeting of the Board of Directors of the Corporation held on November 23, 1999, with a full quorum present and acting throughout:

- RESOLVED:** That the Fourth Amended and Restated Certificate of Incorporation of the Corporation (the "Restated Certificate"), amending and restating the Corporation's Certificate of Incorporation so that such Restated Certificate shall be and read in its entirety as set forth in Exhibit A, be, and hereby is, approved and recommended to the stockholders for approval as being in the best interests of the Corporation:
- RESOLVED:** That, subject to stockholder approval, the Chief Executive Officer and the President, and each of them acting alone, are hereby authorized to execute the Restated Certificate, and the Secretary and any Assistant Secretary, and each of them acting alone, are hereby authorized to attest such execution and that the Corporation is hereby authorized to file the Restated Certificate with the Secretary of State of the State of Delaware.
- RESOLVED:** That, subject to stockholder approval of the Restated Certificate, the Amended and Restated ByLaws for the Corporation are hereby approved and adopted in the form attached hereto as Exhibit B and are ordered inserted in the minute book of the Corporation.
- RESOLVED:** That the officers of the Corporation are hereby authorized in the name of and on behalf of the Corporation to execute Amendment No. 1 (the "Amendment") to the Series C Preferred Stock and Warrant Purchase Agreement (the "Purchase Agreement") among Duquesne Enterprises, Inc. ("DEI"), Until Corporation ("Until"), Insight Capital Partners III, L.P., InSight Capital Partners III (Cayman), L.P., InSight Capital Partners III (Co-Investors), L.P., WI Software Investors LLC (collectively "InSight") and GE Capital Equity Investments, Inc. ("GE Capital") and the Corporation for the sale of the Series C Preferred Stock and Warrants (the "Series C Financing") in substantially the form attached as Exhibit C hereto, which Amendment is hereby approved with such changes as the officers executing such Amendment shall

approve, such approval to be conclusively evidenced by the execution and delivery thereof.

RESOLVED: That the Board of Directors hereby decreases the number of shares of Series C Preferred Stock, \$.01 par value per share (the "Series C Preferred Stock") authorized for issuance from up to 6,000,000 shares to up to 5,443,829 shares pursuant to the terms of the Restated Charter and that the Board of Directors hereby finds that the consideration to be received under the Amendment is adequate and upon issuance such shares shall be validly issued, fully paid and nonassessable.

RESOLVED: That, effective upon the determination of the conversion price in the manner set forth in the Restated Certificate, up to 5,443,829 shares of Common Stock are hereby reserved for issuance upon conversion of the Series C Preferred Stock.

RESOLVED: That the Board of Directors hereby determines that the conversion of shares of Series C Preferred Stock is adequate consideration for the underlying Common Stock to be issued in connection with such conversion and upon such conversion such underlying Common Stock shall be validly issued, fully paid and nonassessable.

RESOLVED: That the certificates for the shares of Series C Preferred Stock may be executed on behalf of the Corporation by facsimile signature so long as the certificates shall be countersigned by the manual signature of an authorized officer of the Corporation; and if any officer of the Corporation whose facsimile signature appears upon any certificates for shares of Series C Preferred Stock ceases to be such officer prior to their issuance, the shares bearing such facsimile signature shall nevertheless be valid.

RESOLVED: That the Board of Directors hereby approves the issuance of Warrants to purchase up to 1,008,766 shares of Series C Preferred Stock to the purchasers listed in Exhibit A to the Purchase Agreement in substantially the form attached as Exhibit D hereto (the "Warrants").

RESOLVED: That up to 1,008,766 shares of Series C Preferred Stock are hereby reserved for issuance upon exercise of the Warrants and upon such exercise, the shares of Series C Preferred Stock issued shall be validly issued, fully paid and nonassessable.

RESOLVED: That the Board of Directors hereby authorizes the officers of the Corporation to exchange the warrants to purchase 734,386 shares of Common Stock previously issued pursuant to the Purchase Agreement prior to Amendment for warrants to purchase 734,386 shares of Series C Preferred Stock pursuant to the Amendment.

RESOLVED: That the Board of Directors hereby authorizes the officers of the Corporation to exchange the warrants to purchase 600,000 shares of Common Stock issued to DEI on March 25, 1999 for new warrants to purchase 600,000 shares of Common Stock in substantially the form attached as Exhibit E hereto.


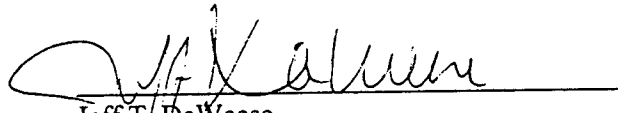
RESOLVED: That the Board of Directors hereby authorizes the officers of the Corporation to exchange the warrants to purchase 270,000 shares of Common Stock issued to Until on March 25, 1999 for a new warrants to purchase 270,000 shares of Common Stock in substantially the form attached as Exhibit F hereto.

- RESOLVED:** That the proper officers of the Corporation are hereby authorized in the name of and on behalf of the Corporation to execute the Second Amended and Restated Investor Rights Agreement among the Corporation, DEI, Until, InSight and GE Capital (the "Investor Rights Agreement") in substantially the form attached as Exhibit G hereto, which Investor Rights Agreement is hereby approved with such changes as the officers executing such agreement shall approve, such approval to be conclusively evidenced by the execution and delivery thereof.
- RESOLVED:** That the officers are hereby authorized in the name of and on behalf of the Corporation to execute the Second Amended and Restated Shareholders Agreement among the Corporation, DEI, Until, InSight, GE Capital, John P. Gaus and Jeff T. DeWeese (the "Shareholders Agreement") in substantially the form attached as Exhibit H hereto, which Shareholders Agreement is hereby approved with such changes as the officers executing such agreement shall approve, such approval to be conclusively evidenced by the execution and delivery thereof.
- RESOLVED:** That, effective upon the subsequent closing of the Series C Financing, Keith Miller is hereby designated as a director of the Corporation to serve until the next annual meeting of stockholders or until his successor is duly elected and qualified.
- RESOLVED:** That the officers of the Corporation hereby are, and each of them hereby is, authorized to execute and deliver all such instruments, make all such payments, make all such filings pursuant to federal and state securities laws or otherwise (and any such filings heretofore made are hereby ratified), and do all such other acts and things as in their opinion, or in the opinion of any of them, may be necessary or appropriate in order to carry out the intent and purposes of the foregoing resolutions.

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- 4 -

The undersigned further directs that this Consent shall take effect immediately as of the date first above written and shall be filed in the minute book of the Corporation with the minutes of the meetings of the Board of Directors.


John P. Gaus
Jeff T. DeWeese

Rachel K. Lorey

Jeffrey Lieberman

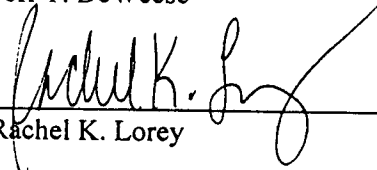
Jeffrey Horing

Robert Schoenberger

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John P. Gaus

Jeff T. DeWeese



Rachel K. Lorey

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- 4 -

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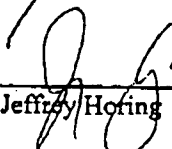
John P. Gaus

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Rachel K. Lorey



Jeffrey Lieberman



Jeffrey Horing

Robert Schoenberger

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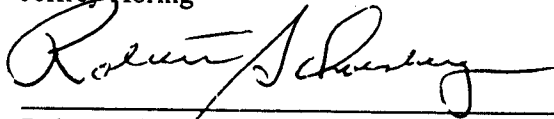
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Jeffrey Horing



Robert Schoenberger